

BenweldSecure Limited Standard Terms and Conditions

1. Interpretation

1.1 Definitions. In this Schedule, the following definitions apply:

"Agreement" means these terms and conditions, the Order and the Order Acknowledgment.

"Abortive Fee" has the meaning given to it in clause 10.10.1.

"Applicable Law" means all applicable laws, statutes, regulations, legally binding codes, legally binding government guidance, legally binding rules, in each case from time to time in force and **"Change in Law"** shall mean any change in Applicable Law which comes into effect after the Commencement Date.

"Business Day" means a day (other than a Saturday, Sunday, bank or public holiday) when banks in London are open for business.

"Building Regulations" means Part 2A of the Building Regulations 2010.

"Commencement Date" means the earlier of (i) the date on which the Supplier delivers the Goods and (ii) the date on which the Supplier commences provision of the Services.

"CDM Regulations" means the Construction (Design and Management) Regulations 2015 (SI 2015/51).

"Customer" means the person to whom the Supplier provides the Goods and / or Services.

"Data Protection Legislation" means (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; and (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.

"Data Subject and Data Controller" shall have the meaning ascribed to them in the UK GDPR.

"Delivery" means delivery of the Goods as described in clause 9.2.

"EU GDPR" means the General Data Protection Regulation ((EU) 2016/679).

"Force Majeure Events" means any circumstances set out at clause 17.1.

“Goods” means the goods (or any part of them) to be supplied by the Supplier to the Customer as described in the Order Acknowledgment.

“Group” means in relation to a company, that company, any subsidiary or holding company from time to time of the company, and any subsidiary from time to time of a holding company of that company.

“Insolvency Event” means any of the following events:

- a) a party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- b) a party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- c) a party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;
- d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of a party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of a party with one or more other companies or the solvent reconstruction of that other party;
- e) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over a party (being a company, partnership or limited liability partnership);
- f) the holder of a qualifying floating charge over the assets of a party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- g) a person becomes entitled to appoint a receiver over all or any of the assets of a party or a receiver is appointed over all or any of the assets of a party;
- h) a creditor or encumbrancer of a party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- i) a party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- j) any event occurs, or proceeding is taken, with respect to a party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (i) above (inclusive).

“Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights



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to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“Material” means all of designs, drawings, plans, photographs, and other documents and information.

“Order” means the order placed by the Customer by the Supplier in respect of the Goods and / or Services.

“Order Acknowledgment” means the document provided to the Customer by the Supplier acknowledging the Goods and / or Services to be provided by the Supplier.

“Rectification Period” means in respect of the Services within 12 months from when the Services are completed.

“Services” means the services to be performed as specified in the Order Acknowledgment.

“Supplier” means BenweldSecure Limited a company incorporated and registered in England and Wales with company number 07639343 whose registered office is at 26 The Business Centre, Molly Millars Lane, Wokingham, Berkshire, RG41 2QY.

“Specification” means any specification produced by the Supplier for the Goods.

“Storage Fee” has the meaning given to it in clause 10.10.2.

“UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.

“Variation” means either (a) any matter expressly identified in this Agreement as a variation or (b) any request to vary, add to or reduce either: (i) the Goods themselves, including the dates on which they are to be delivered or the sequence of deliveries or number of deliveries or a variation to the Delivery Location; (ii) in respect of the Services, the scope of the Services or the manner or sequence in which they are performed including in all cases the reduction or omission of any Goods and / or Services.

“Warranty Period” means in respect of Goods, 12 months from the date that the Goods are delivered to the Customer in accordance with clause 9.2.

“Works Insurance Policy” has the meaning in clause 12.1.1.

1.2 **Interpretation.** In this Agreement, the following rules apply:

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns.
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.



1.2.5 a reference to **writing** or **written** does not include faxes but does include emails.

2. Basis of Agreement

- 2.1 This Agreement applies to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. Without prejudice to the generality of the foregoing, all conditions, warranties, representation or other terms that might otherwise be implied into this Agreement are to the fullest extent permitted by law, excluded from this Agreement, including the conditions and terms implied by Sections 3-5 (inclusive) and Section 13 of the Supply of Goods and Services Act 1982.
- 2.2 The Customer is responsible for ensuring that the terms of the order submitted by the Customer are complete and accurate.
- 2.3 The order shall only be deemed to be accepted when the Supplier issues an Order Acknowledgment, at which point, and on which date the Agreement shall come into existence in accordance with and subject to this Agreement.
- 2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer.
- 2.5 Any drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and Services referred to in them. They shall not form part of the Agreement nor have any contractual force.
- 2.6 The Supplier shall not in any event be obliged to provide the Customer, any of the Customer's persons, or any third party with a collateral warranty or third party rights relating to or in connection with the Goods, Services, or this Agreement.
- 2.7 If there is an inconsistency between any of the documents forming the Agreement, then the priority of documents shall be as follows: 1) Order Acknowledgment, 2) these terms and conditions and 3) the Order.

3. Customer's obligations

- 3.1 The Customer shall at its own cost:
 - 3.1.1 co-operate with the Supplier in all matters relating to the Goods, Services and this Agreement and if applicable, ensure that any other suppliers co-operate with the Supplier where reasonably necessary;
 - 3.1.2 obtain and maintain all licences, consents and permissions that are necessary to enable the Supplier to provide the Goods and Services including if applicable, all licences, consents and permissions for the site at which the Goods are to be delivered, or the Services are to be provided;
 - 3.1.3 provide the Supplier, in a timely manner and at no charge, with access to the Customer's premises and other facilities as required by the Supplier for the performance of the Services;
 - 3.1.4 inform the Supplier of all health and safety and security requirements that apply at any of the Customer's premises or sites which the Supplier Personnel must comply with;



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- 3.1.5 maintain any of the Supplier's equipment, materials or property in the Customer's possession or control in accordance with the Supplier's instructions from time to time and shall not dispose of or use the Supplier's equipment, materials or property other than in accordance with the Supplier's written instructions or authorisation;
- 3.1.6 insure all of the Supplier's equipment, materials or property left on the site (on which the Goods are delivered or the Services are provided) for their full reinstatement value;
- 3.1.7 be fully liable and responsible for any damage, loss, theft to the Supplier's equipment, materials or property, save to the extent that any such damage, loss or theft is directly attributable to any negligence of the Supplier or any person acting on its behalf.
- 3.1.8 ensure that the site at which the Goods are to be delivered is prepared for delivery and installation in good time prior to the planned delivery or installation date and in line with the Supplier's instructions and any requirements of the Supplier as notified from time to time. The Customer must ensure that any frame or structure into which any Goods are to be installed or loaded are fit for purpose and meet any requirements or instructions of the Supplier from time to time.

4. Goods

- 4.1 The Supplier shall supply the Goods to the Customer in accordance with the terms set out in this Agreement. The Supplier warrants that on Delivery, the Goods shall materially comply with the Specification.
- 4.2 The Supplier shall have the right to make any changes, without approval by the Customer, to the Goods which are necessary to comply with any Applicable Law, Change in Law or safety requirement, or which do not materially affect the nature or quality of the Services, and where reasonably possible the Supplier shall notify the Customer in advance. This will be treated as an approved Variation and the Supplier reserves the right to invoice the Customer for any additional costs it incurs as a result of having to change the Goods to be compliant with a Change in Law.

5. Defects and rectification

- 5.1 The warranty set out in this clause only applies to materials and goods that have been manufactured by the Supplier.
- 5.2 The Supplier warrants that on Delivery and during any Warranty Period and Rectification Period, the Goods and Services shall conform in all material respects with the Specification and (in respect of the Services, clause 10.1).
- 5.3 If the Goods or Services do not comply with the warranty at clause 5.2 on Delivery or during the Warranty Period and / or Rectification Period (including as a result of incorrect or faulty installation of the Goods by the Supplier), the Customer must, as a condition precedent to any rights or remedies under this clause, notify the Supplier and comply with, immediately of the relevant defect or issue and in any event within 2 Business Days of noticing the relevant defect or issue, all instructions provided to it by the Supplier in respect of rectifying the relevant fault or issue including (without limitation) implementing any recommendations set out in any manual or guide provided to the Customer. If the Goods or Services still do not comply with the warranty at clause 5.2, the Customer must as a condition precedent to any of its rights or remedies of this clause 5, if requested by the Supplier, either return the Goods to the Supplier or make available the goods for inspection. The Supplier will undertake the inspection at its sole cost and expense, save for if on inspection the Supplier



determines that the Goods or Services do comply with the warranty at clause 5.2 or any of the events in clause 5.8 apply, in which case the Customer shall be fully responsible for all costs and expenses incurred by the Supplier in connection with the inspection and shall pay to the Supplier on demand and as a debt such costs and expenses.

- 5.4 The Supplier shall have no duty, obligation or responsibility to rectify, repair or replace or any other obligations or liabilities in respect of any defects, faults or other issues in the Goods or Services. Any defects, faults or other issues notified to the Supplier after the Warranty Period and / or Rectification Period expire (irrespective of when the defect, fault or other issue arose) and any action undertaken by the Supplier shall be chargeable at the Supplier's then applicable rates, and the Supplier will use reasonable endeavours to provide the Customer with a cost estimate for any required action.
- 5.5 The Customer shall at its sole expense return the Goods to the Supplier in accordance with clause 5.3. If the Goods are found to be (subject to clause 5.8) defective due to cause directly attributable to the Supplier, the Supplier shall reimburse any costs reasonably and properly incurred by the Customer relating to the return of Goods.
- 5.6 Subject to the Customer's compliance with clause 5.3, the Supplier may then at its discretion, and within a reasonable time, rectify such defects, shrinkages or other faults or replace such Goods or Services free of charge.
- 5.7 It is agreed by the Customer that the remedies detailed in clause 5.6 shall constitute the Customer's sole remedy in respect of any breach of the warranty detailed in clause 5.2.
- 5.8 The Supplier shall not be liable for the Goods' or Services' failure to comply with the warranty set out in clause 5.2 if any such failure is caused or contributed to (whether directly or indirectly) by:
 - 5.8.1 the Customer (or any person acting on its behalf) making any further use of such Goods after giving notice in accordance with clause 5.3;
 - 5.8.2 the Customer (or any person acting on its behalf) altering or repairing such Goods without the written consent of the Supplier;
 - 5.8.3 the Goods differing from the description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
 - 5.8.4 fair wear and tear;
 - 5.8.5 wilful damage;
 - 5.8.6 mis-use and / or neglect;
 - 5.8.7 abnormal working conditions, or storage or use other than in accordance with our instructions (including but not limited to verbal instructions, or as provided to the Customer in a manual) from time to time;
 - 5.8.8 failure to properly and promptly carry out the maintenance procedures recommended by the Supplier;
 - 5.8.9 the Goods slightly varying in colour or suffering some other minor alteration which may occur as a result of our manufacturing process;
 - 5.8.10 a failure to use the Goods (i) for the purposes for which they are reasonably intended and / or (ii) in accordance with the Supplier's instructions for use;



- 5.8.11 the Supplier following the Customer's instructions or designs;
 - 5.8.12 the building or services or systems into which the Goods are installed or to which they are connected; or
 - 5.8.13 installation or service of the relevant product (except where we are the installer or conduct the relevant service).
- 5.9 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' or Services' failure to comply with the warranties set out in clause 5.2.
- 5.10 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from each Agreement.
- 5.11 This Agreement shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Design Submission Procedure

- 6.1 In respect of any design, the Supplier shall complete the design and submit to the Customer all drawings, details documents or information ("**Submitted Designs**").
- 6.2 The Supplier shall use reasonable endeavours to provide the Submitted Designs to the Customer within the timeframes agreed by the Parties but all timeframes are estimates only and time is not of the essence.
- 6.3 The Customer shall within five Business Days of receiving the Submitted Designs, confirm whether the Submitted Designs are approved or rejected. If the Customer fails to respond within such a five Business Day period the Customer will be deemed to have accepted the Submitted Designs.
- 6.4 The Customer must act in good faith if it is rejecting all or any parts of the Submitted Design Documents and it shall notify the Supplier at the time of rejecting the Submitted Design Documents, which elements of the design has been rejected and the reasons for rejecting them and suggest improvements. The Supplier will then use reasonable endeavours to incorporate the Customer's comments into its amended version of the designs and submit to the Customer such amended version for further review but the Supplier shall have no obligation to make any requested changes where it considers such changes (i) are not recommended (ii) would damage or weaken the Goods or negatively impact their performance, (iii) could damage property or reduce the usual life expectancy of the Goods or any property, (iv) are a risk to life or health and safety, (v) will or may infringe any applicable laws or rules including all legislation, regulations, directives, orders, decisions of any court or authority with applicable jurisdiction.
- 6.5 The process in this clause shall be repeated twice after which the Customer will be deemed to have accepted the designs, and the Supplier may continue with the Submitted Designs even if the Customer has not approved all or part of the designs.
- 6.6 Notwithstanding approval by the Customer, the Supplier may include the Design Works in the payment applications.

7. Variations

- 7.1 The Customer may request Variations to the Goods and / or Services by issuing written instructions to the Supplier and the Supplier may suggest a Variation (a "**Variation Instruction**").



- 7.2 Pursuant to clauses 4.2 and 10.5, the Supplier shall not be required to follow the procedure in this clause in connection with any change or proposed change to the Goods or Services as a result of or in connection with any Change in Law.
- 7.3 Within seven Business Days of receipt of a Variation Instruction the Supplier may at its sole discretion either (i) (without incurring any liability whatsoever to the Customer) refuse to provide a cost quotation to the Customer and the Variation Instruction shall then be considered to be rejected and shall have no effect or (ii) submit to the Customer a cost quotation for the Variation and an indication of any additional time the Supplier requires to complete the relevant works.
- 7.4 Within three Business Days of receipt of the Supplier's quotation, the Customer will accept or reject the Supplier's quotation. If the Customer has not accepted or rejected the Supplier's quotation within the timescale specified in this clause 7.4, the Customer will be deemed to have accepted the Supplier's quotation.
- 7.5 If the Customer requests to reduce the number of Goods or the scope of Services from a particular order, the Customer acknowledges and agrees that any such monies payable or paid to the Supplier for any such order(s) shall not be reduced or returned to reflect any such omission, save in accordance with clause 5.
- 7.6 If:
- 7.6.1 the Customer requests to vary the date(s) on which the Supplier delivers the Goods or provides any Services; or
- 7.6.2 the Customer is unable or unwilling to accept Delivery of the Goods on the day the Supplier (or a person appointed by the Supplier) attempts to make Delivery,
- then in each case and without prejudice to any other rights or remedies available to the Supplier, the Customer acknowledges and agrees that the Supplier may charge the Supplier an Abortive Fee and a Storage Fee.
- 7.7 The Supplier reserves the right (without incurring any liability whatsoever to the Customer) to refuse any request by the Customer to vary the date(s) on which the Supplier delivers the Goods or provides any Services.

8. Title and risk

- 8.1 The risk in the Goods shall pass to the Customer on completion of Delivery as determined pursuant to clause 9.2.
- 8.2 Title to Goods supplied by the Supplier to the Customer shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for all sums due or which may become due to the Supplier under this Agreement, in which case title to the Goods supplied under such Agreement shall pass to the Customer at the time of payment of all such sums.
- 8.3 Until title to the Goods has passed to the Customer in accordance with clause 8.2, the Customer shall:
- 8.3.1 store the Goods separately from all other goods held by the Customer so that all Goods remain readily identifiable as the Supplier's property;
- 8.3.2 if applicable, not incorporate the Goods, or any part of the Goods into any works for which the Supplier acts as a sub-contractor or contractor;



- 8.3.3 not sell the Goods to a third party;
 - 8.3.4 not remove, deface or obscure any identifying mark on or relating to the Goods;
 - 8.3.5 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of Delivery;
 - 8.3.6 notify the Supplier immediately if it becomes subject to an Insolvency Event; and
 - 8.3.7 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 8.4 If before title to the Goods passes to the Customer either (i) the Customer becomes subject to an Insolvency Event or (ii) the Supplier exercises any of its rights pursuant to clause 18 of the Agreement or (iii) the Customer fails to pay to the Supplier any amounts due under this Agreement by the relevant final date for payment, then in each case (i)-(iii), without limiting any other right or remedy the Supplier may have:
- 8.4.1 the Supplier may at any time:
 - 8.4.1.1 require the Customer, at the Customer's own cost and expense, to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - 8.4.1.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
- 8.5 The Customer grants the Supplier any and all necessary consents to enter the premises of the Customer under clause 8.4.

9. Delivery

- 9.1 The Supplier may at its own discretion decide to deliver the Goods in instalments and if it does so, will notify the Customer accordingly. Where the Goods are to be delivered in instalments, they may be invoiced by the Supplier and paid for separately. References in this Agreement to Goods shall, where applicable, be read as references to instalments.
- 9.2 Delivery of the Goods shall be completed either:
 - 9.2.1 once the Goods have arrived at the location agreed by the parties ("Delivery Location") or;
 - 9.2.2 when they are collected by the Customer, the Customer's carrier or anyone nominated by the Customer at the Supplier's premises.
- 9.3 Where required by the Supplier, the Customer shall on Delivery sign a sign-off sheet confirming that the Goods (including any keys) have been received by the Customer. For the avoidance of doubt, this constitutes conclusive evidence that the Goods have been delivered in accordance with the Agreement and have been accepted by the Customer subject to clause 5.3.
- 9.4 The Supplier shall, unless agreed otherwise by the parties, use reasonable endeavours to deliver the Goods to the Delivery Location on or around the date specified by the Supplier but time of Delivery or provision of the or Goods is not of the essence.



- 9.5 The Supplier shall not be liable for any delay in Delivery of the Goods or provision of any Services and shall be that is caused or contributed to by:
- 9.5.1 a Force Majeure Event; or
 - 9.5.2 the Customer's failure to provide the Supplier with adequate Delivery instructions or any other instructions that are relevant to the supply of the Goods;
 - 9.5.3 any Variations;
 - 9.5.4 any failure or delay by the Customer to give any access required by the Supplier at the Delivery Location for the purposes of delivering the Goods and / or Services;
 - 9.5.5 any impediment, prevention or default whether by act or omission by the Customer or any person acting on behalf of the Customer;
 - 9.5.6 if applicable, deferment of giving access to the site or any part of the site;
 - 9.5.7 a Change in Law;
 - 9.5.8 any insurance claim by the Customer under clause 12.4.1;
 - 9.5.9 any suspension by the Supplier of the provision of the Goods and / or Services pursuant to any right in this Agreement.
- 9.6 Where the Supplier is delayed in providing any Goods and / or Services as a result of or in connection with any of the events listed in clause 9.5 then any time period for delivering the Goods and / or Services will be extended by such period as the Supplier (acting reasonably and in good faith) considers to be required as a result of or in connection with such event.

10. Services

- 10.1 The Supplier shall perform the Services with reasonable skill and care.
- 10.2 The Supplier shall, unless agreed otherwise by the parties, use reasonable endeavours to perform Services in accordance with any agreed programme of works but time of provision of the Services is not of the essence.
- 10.3 Prior to the Supplier commencing the Services, the Customer shall provide the Supplier with all information required by the Supplier in respect of the Customer's site on which the Services are being provided. The Customer warrants to the Supplier that any such information provided will be accurate and not misleading.
- 10.4 The Supplier shall not be liable for any delay in provision of the Services and shall be granted an automatic extension in respect of any project programme that is caused or contributed to by:
- 10.4.1 a Force Majeure Event;
 - 10.4.2 the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the provision of the Services;
 - 10.4.3 any Variations;
 - 10.4.4 a Change in Law;



- 10.4.5 any delays in planning permission or other required approvals, permissions, permits or licenses for the Goods / Services;
- 10.4.6 any failure or delay by the Customer to give any access required by the Supplier at the Delivery Location for the purposes of providing the Services;
- 10.4.7 any impediment, prevention or default whether by act or omission by the Customer or any person acting on behalf of the Customer;
- 10.4.8 any suspension by the Supplier of the provision of the Services pursuant to any right in this Agreement;
- 10.4.9 any failure by the Customer to comply with any of its obligations in these terms and conditions.
- 10.5 The Supplier shall have the right to make any changes to the Services, without approval by the Customer, which are necessary to comply with any Applicable Law, Change in Law or safety requirement, or which do not materially affect the nature or quality of the Services, and where reasonably possible the Supplier shall notify the Customer in advance. This will be treated as an approved Variation and the Supplier reserves the right to invoice the Customer for any additional costs it incurs as a result of having to change the Services to be compliant with a Change in Law.
- 10.6 The Supplier shall not be the Principal Designer or Principal Contractor under the CDM Regulations or the Building Regulations. The Customer shall at its own cost and expense make all appointments required by and comply with the CDM Regulations and the Building Regulations.
- 10.7 The Customer shall, at its own cost and expense, provide the Supplier with adequate and suitable access to electricity, water, internet, toilet facilities and any other services / facilities which the Supplier requires for the provision of the Services.
- 10.8 To facilitate Delivery and installation, the Customer shall at its sole expense:
 - 10.8.1 provide all requisite materials, facilities, access and suitable working conditions to enable Delivery and installation to be carried out safely and expeditiously;
 - 10.8.2 prepare the site at which the Goods are to be delivered, or the Services are to be provided in accordance with the Supplier's instructions and requirements; and
 - 10.8.3 ensure that the site at which the Goods are to be delivered is safe and fit for the Supplier to provide the Services.
- 10.9 The Customer shall procure that a duly authorised representative of the Customer shall be present at the installation of the Goods. Acceptance by such representative of installation shall constitute conclusive evidence that the Customer has examined the Goods and has found such Goods to be in good condition, complete and fit in every way for the purpose for which it is intended. The Supplier shall not be liable whatsoever for a failure by the Customer to procure an authorised representative or for the absence of an authorised representative at the installation.
- 10.10 If the Customer fails to comply with clause 10.8 or the Services are delayed as a result of or in connection with any of the matters referred to in clause 10.4 or the Customer's failure to comply with clause 3.1.8, the Supplier may at its sole and absolute discretion charge the Customer:



- 10.10.1 an abortive fee in respect of any cancelled day on which the Services were to be provided at the Supplier's then applicable rates (**Abortive Fee**); and
- 10.10.2 a fee for storage which the Supplier incurs or has incurred as a result of or in connection with being unable to complete the Services (**Storage Fee**); and
- 10.10.3 the costs which the Supplier incurs or has incurred (including but not limited to transport costs, staff costs, wasted time costs).

11. Payment

- 11.1 Unless agreed otherwise by the parties in writing, the payment mechanism in this clause shall apply. The fees and charges for the Goods and Services is as set out in the Order Acknowledgment, as amended pursuant to these terms and conditions. The fees and charges for the Goods and Services may be charged on a time and materials basis at the rates set out in the Order Acknowledgment or as updated by the Supplier from time to time.
- 11.2 The Supplier shall either (i) submit payment applications to the Customer at such intervals set out in the Order Acknowledgment or (ii) submit monthly payment applications to the Customer. Each payment application shall state the sum considered to be due by the Supplier and the basis upon which that sum has been calculated. The Supplier may submit payment applications in advance and require payment upfront for Goods or Services, in each case in accordance with the payment schedule set out in the Order Acknowledgment. The Supplier shall include within each payment application a request for the Customer to confirm in writing whether the VAT Reverse Charge applies to the supply to which the payment application relates. The Customer shall provide such confirmation relating to such supply within five Business Days of the relevant payment application. All sums stated are exclusive of VAT which shall be charged in addition at the prevailing rate from time to time.
- 11.3 The due date for payment shall be five Business Days from the date on which the Supplier submits the relevant payment application to the Customer (the "**Due Date**").
- 11.4 The final date for payment shall be 14 days from the Due Date.
- 11.5 Not later than five days after the Due Date the Supplier shall issue a notice (a "**Payment Notice**") setting out the sum the Supplier considers to be due as at the Due Date and the basis upon which that sum has been calculated. If the Supplier fails to do so, its payment application submitted pursuant to clause 11.2 shall act as a payment notice in default.
- 11.6 If the Customer intends to pay less than the sum stated in the Payment Notice or the Supplier's payment application (as the case may be), not later than seven days prior to the final date for payment, the Customer shall issue a notice to the Supplier (a "**Pay Less Notice**") setting out the sum the Customer considers to be due as at the date the Pay Less Notice is given and the basis upon which that sum has been calculated.
- 11.7 The Customer shall pay all sums due under this Agreement in full and cleared funds to the bank account nominated by the Supplier from time to time and without any set off, deduction, counterclaim or withholding.
- 11.8 On request by the Supplier, the Customer shall at its sole cost and expense provide the Supplier with, within 15 Business Days from any such request, a payment bond, parent company guarantee, or any other such security document as required by the Supplier in a format and amount acceptable to the Supplier with an expiry date not earlier than the



completion of the Services. If the Customer fails to provide the Supplier with any requested documents, the Supplier, without incurring any liability whatsoever to the Customer, may suspend provision of all or part of the Goods and / or Services under this Agreement which will only be resumed on receipt of the requested security document. If the Supplier exercises its rights to suspend under this clause, it shall be entitled to recover on demand and as a debt all costs and expenses incurred as a result or in connection with such suspension, including costs of demolishing and remobilising.

- 11.9 The Supplier shall be entitled to charge an amount to cover its reasonable costs of processing the Customer's order in addition to the price of the Goods and / or Services if the total order price for the Goods and / or services, excluding VAT, is below the Supplier's minimum order level current at the time the order is placed. The Supplier shall notify the Customer of any additional costs at the time of accepting an order and shall on request provide to the Customer full details of its minimum order level.
- 11.10 The Customer shall indemnify and keep indemnified the Supplier and shall pay to the Supplier on demand a sum equal to, all liabilities, costs (including but not limited to interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses (including court fees), claims, demands, expenses, damages and losses (including but not limited to any direct losses, direct loss of profit, direct loss of reputation) suffered and / or incurred by the Supplier arising out of or in connection with any failure by the Customer to pay any sums due to the Supplier under or in connection with this Agreement.
- 11.11 In addition to the fees and charges for the Goods and Services, the Supplier shall be entitled to charge the Customer for expenses and disbursements it incurs in providing the Services including travel, hotel accommodation, subsistence and other expenses. Such expenses may be included in any payment application after they have been incurred.

Cost increases

- 11.12 If the Supplier's costs of supplying such Goods or Services increases for whatever reason (including but not limited to increases in costs of materials, wages and salaries or due to delays by the Customer in providing information required by the Supplier), the Supplier shall notify the Customer of any impact such increase in costs will have on the price of the Goods and / or Services and the price payable for the Goods and Services shall be increased accordingly.
- 11.13 The Supplier will be entitled to increase the price of the Goods and / or Services as a result of or in connection with its rights under clause 10.10 or for a failure by the Customer to provide the Supplier with any relevant information or where the Supplier is required to change or alter the Goods or Services as a result of unforeseen conditions of the Delivery Location (including the nature of the building, layout, load bearings, accessways and any other conditions or where the Delivery Location is not ready for the Goods or Services on the relevant date, or is not fit for the Goods or Services (in the Supplier's reasonable opinion) including (without limitation) where the Customer has failed to comply with its obligations in clause 3.1.8)).

Loss and Expense

- 11.14 Without prejudice to any rights or remedies available to the Supplier, if in the execution of this Agreement the Supplier incurs or is likely to incur any loss and / or expense as a result of or in connection (directly or indirectly) with (i) any act, omission, fault or breach by the Customer, any of its employees, agents, directors, officers or sub-contractors (ii) a Force Majeure Event, or (iii) any of the matters listed in clause 9.5 or 10.4, (iv) any other matter beyond the control of the Supplier including if applicable any delay caused or contributed to as a result of or in connection with the carrying out of any works by any third party at the



site), then in each case (i) – (iv) the Supplier shall be entitled to reimbursement of that loss and / or expense by the Customer under this Contract, as notified by the Supplier from time to time. Such loss and / or expense shall be calculated on a time and materials basis and will include but shall not be limited to any preliminaries, overheads, expenses and other costs of having any other persons on the site.

- 11.15 Any loss or expense payable pursuant to clause 11.14, shall at the Supplier's sole discretion either (i) be payable immediately, on demand and as a debt or (ii) included in the next payment application.

Suspension for non-payment

- 11.16 Without limiting its other rights or remedies under this Agreement or at law, if the Customer fails to pay to the Supplier any amount due under this Agreement by the relevant final date for payment, the Supplier may give no less than seven days' notice to the Customer of its intention to suspend performance of the provision of the Goods and / or supply of Services and the grounds on which it intends to suspend performance and / or supply.
- 11.17 If the Customer fails to remedy the non-payment (for the amount which the Supplier intends to suspend performance and / or supply for) within the seven-day period referred to in clause 11.16, the Supplier may suspend performance and / or supply without further notice to the Customer.
- 11.18 The Supplier shall not be required to resume performance and / or supply until the Customer makes payment in full of the relevant amounts; and
- 11.19 The Customer shall indemnify the Supplier and shall pay to the Supplier on demand a sum equal to, all liabilities, expenses, damages, costs (including but not limited to costs of demobilisation and remobilisation (calculated on a full indemnity basis) and losses (including but not limited to any direct losses, direct loss of profit, direct loss of reputation) suffered and / or incurred by the Supplier as a result of or in connection with any suspension by the Supplier for non-payment by the Customer.

12. Insurance

- 12.1 The Customer shall obtain and maintain, at its own cost and expense:
- 12.1.1 a works insurance policy covering the Services in the joint names of the Supplier and the Customer and on terms reasonably acceptable to the Supplier ("**Works Insurance Policy**"); and
- 12.1.2 a public liability insurance policy with a limit of indemnity of not less than £5,000,000 (five million pounds) per claim,
- together the "**Insurance Policies**".
- 12.2 The Customer must maintain such insurance until completion of the Services. The Customer shall ensure that:
- 12.2.1 the Works Insurance Policy is for not less than the full reinstatement value of the Goods and Services and provide for a waiver of subrogation in favour of the Supplier;
- 12.2.2 the Insurance Policies are maintained until the completion of the Services, or (if earlier) the date of termination of this Agreement;



- 12.2.3 the Insurance Policies are on customary and usual terms and conditions prevailing for the time being in the UK insurance market;
 - 12.2.4 the Insurance Policies cover usual risks covered by the type of policy; and
 - 12.2.5 as and when reasonably requested to do so by the Supplier, produce for inspection documentary evidence that such insurance has been effected and / or is being maintained.
- 12.3 The Customer must not by any act or omission do anything which will or may cause the insurer in respect of the Works Insurance Policy to terminate or cease to provide coverage or refuse to pay out in respect of any claim or potential claim.
- 12.4 Insurance claim
- 12.4.1 The Customer shall immediately notify if it makes or intends to make a claim under the Works Insurance Policy.
 - 12.4.2 The Customer must then do all things necessary (at its sole cost and expense) to recover any such losses and costs as far as is possible under such insurance policy and shall authorise the insurer to pay the insurance proceeds to the Supplier to the extent required to reimburse the Supplier for any works to be undertaken under clause 12.4.4.
 - 12.4.3 The Supplier may retain from the insurance proceeds any amounts properly incurred by it and notified by it to the insurers.
 - 12.4.4 Subject to the Supplier receiving the insurance proceeds in accordance with clause 12.4.3, the Supplier will use reasonable endeavours to either (i) reinstate any relevant works or (ii) procure that any relevant works are reinstated. If there is a shortfall between the insurance proceeds received by the Supplier and the sums required by the Supplier to reinstate any relevant damage, the Customer shall pay the difference to the Supplier on demand and as a debt.

13. Construction Industry Scheme ("CIS")

- 13.1 The Customer warrants that it is not a 'contractor' at the date of this Agreement for the purposes of the CIS and will not become one during the provision of Goods and / or Services by the Supplier. If the Customer does become a 'contractor' for purposes of the CIS during the provision of Goods and / or Services by the Supplier, it shall immediately notify the Supplier.

14. Copyright and use

- 14.1 Ownership of all Intellectual Property Rights in any Materials relating to or in connection with the Goods and / or Services (including the Submitted Designs) shall remain vested in the Supplier and save as set out below, the Customer shall have no rights, title or interest in or to any such Materials.
- 14.2 Subject to all sums due and payable under this Agreement to the Supplier having been paid, it shall grant, a revocable, non-assignable, non-sublicensable, non-transferable non-exclusive and royalty free licence to the Customer to use the Material but not reproduce or copy any of the designs and drawings produced in any Material. The Supplier may immediately on written notice suspend all licences granted to the Customer if the Customer fails to pay any sums due to the Supplier on time and shall only be required to reinstate such licence upon payment of the overdue amount in full and cleared funds.



- 14.3 The Supplier shall not be liable for any use the Customer may make of the Material produced in respect of the Goods and / or Services for any purpose other than the purposes for which they were prepared.
- 14.4 The Customer shall indemnify the Supplier in full and on demand against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of, or in connection with any infringement of our Intellectual Property Rights.

15. Data protection

- 15.1 For the purposes of this clause, the terms Commissioner, controller, data subject, personal data, personal data breach, processor and processing, shall have the meaning given to them in the Data Protection Legislation.
- 15.2 Each party shall comply with all obligations, responsibilities and duties imposed on it by the Data Protection Legislation in respect of any personal data that it passes to, or receives from, any other party under or in connection with this Agreement.
- 15.3 For the purposes of Data Protection Legislation, each party shall be a Controller of any personal data provided to it by any other party under or in connection with this Agreement. Each party acknowledges that the provision and governance of the Agreement may require each party to disclose or make available to any other party personal data.
- 15.4 In respect of any personal data provided by one party to any other party under this Agreement, the providing party:
- 15.4.1 warrants, represents and undertakes that it has all necessary permissions and consents to enable it to lawfully disclose or make available any personal data to the other;
 - 15.4.2 shall comply with all duties, obligations and restrictions imposed on it by the Data Protection Legislation in respect of the transfer of such personal data; and
 - 15.4.3 shall not by any act or omission in respect of such personal data cause the other to be in breach of Data Protection Legislation.
- 15.5 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation in relation to the personal data disclosed to it or its Group under or in connection with this Agreement. In particular, each party shall:
- 15.5.1 assist the other party, at the cost of the other party, in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
 - 15.5.2 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
 - 15.5.3 maintain complete and accurate records and information to demonstrate its compliance with this Clause 15.5;
 - 15.5.4 consult with the other party about any notices given to data subjects in relation to personal data disclosed to it under or in connection with this Agreement;



- 15.5.5 promptly inform the other party about the receipt of any data subject access request;
 - 15.5.6 provide the other party with reasonable assistance in complying with any data subject access request; and
 - 15.5.7 not disclose or release any relevant personal data disclosed to it from the other party in response to a data subject access request without first consulting the other party wherever possible.
- 15.6 The Customer shall indemnify and keep indemnified the Supplier and shall pay to the Supplier on demand a sum equal to, all liabilities, costs (including but not limited to interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses, claims, demands, expenses, damages and losses (including but not limited to any direct losses, direct loss of profit, direct loss of reputation) suffered and / or incurred by the Supplier arising out of and / or in connection with any breach by the Customer or failure by the Customer to fully comply with this clause and / or any breach of its obligations under the Data Protection Legislation with respect of personal data which is provided to Supplier in connection with the terms of this Agreement.

16. Limitation of Liability

- 16.1 The Supplier shall not have any liability for non-delivery, loss of or damage to Goods occurring prior to Delivery nor for short delivery unless claims to that effect are notified in writing to the Supplier within seven days from the date of Delivery (in the case of loss or damage or short delivery) or within seven days of the Supplier's invoice or advice note (in the case of non-delivery).
- 16.2 Nothing in this Agreement shall limit or exclude the Supplier's liability for:
- 16.2.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - 16.2.2 fraud or fraudulent misrepresentation;
 - 16.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
 - 16.2.4 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
 - 16.2.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 16.3 Subject to clause 16.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), under an indemnity, in restitution, for misrepresentation, breach of statutory duty, or otherwise, for:
- 16.3.1 any loss of profit; or
 - 16.3.2 any loss of revenue; or
 - 16.3.3 loss of agreements or contract; or
 - 16.3.4 loss of anticipated savings; or
 - 16.3.5 any loss of sales or business or



- 16.3.6 loss of or damage to goodwill; or
- 16.3.7 loss of or corruption to data or information; or
- 16.3.8 any indirect or consequential loss or damage.

17. Force Majeure

- 17.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:
 - 17.1.1 acts of God, flood, drought, earthquake or other natural disaster;
 - 17.1.2 epidemic or pandemic;
 - 17.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 17.1.4 nuclear, chemical or biological contamination or sonic boom;
 - 17.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
 - 17.1.6 collapse of buildings, fire, explosion or accident;
 - 17.1.7 any labour or trade dispute, strikes, industrial action or lockouts (other than by the Customer or companies in the same group as the Customer if it is seeking to rely on this clause); and
 - 17.1.8 interruption or failure of utility service.
- 17.2 In respect of the Supplier, the following events also constitute Force Majeure Events for the purposes of this Agreement:
 - 17.2.1 suspension by the Supplier of the performance of any or all of his obligations under this Agreement; and
 - 17.2.2 exceptionally adverse weather conditions.
- 17.3 If a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly and the Completion Date shall be adjusted accordingly.
- 17.4 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 17.5 The Customer shall have no rights under this clause 17 and shall not be entitled to rely on this clause 17 to justify any delays in making any payments due to the Supplier under or in connection with this Agreement.
- 17.6 The Affected Party shall (provided that compliance with this clause 17.6 is not a condition precedent to relief under this clause):



- 17.6.1 as soon as reasonably practicable after the start of the Force Majeure Event notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement.
- 17.7 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than four weeks, the party not affected by the Force Majeure Event may terminate this Agreement by giving two weeks' written notice to the Affected Party.

18. Termination

- 18.1 Without limiting its other rights or remedies, the Supplier may terminate this Agreement with immediate effect by giving written notice to the Customer if:
- 18.1.1 the Customer commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of that party being notified in writing to do so;
- 18.1.2 the Customer becomes subject to an Insolvency Event.
- 18.2 Without limiting its other rights or remedies under this Agreement or at law, the Supplier may suspend provision of the Goods and supply of Services under the Agreement if the Customer becomes subject to an Insolvency Event or the Supplier reasonably believes that the Customer is about to become subject to an Insolvency Event, or if the Customer fails to pay to the Supplier any amount due under this Agreement by the relevant final date for payment.
- 18.3 Without limiting its other rights or remedies, the Supplier may terminate the Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Agreement on the final date for payment and remains in default not less than 10 days after being notified to make such payment.
- 18.4 On termination of the Agreement for any reason the Customer shall:
- 18.4.1 immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Goods and / or Services supplied but for which no invoice or payment application has been submitted, the Supplier shall submit a payment application in accordance with clause 11.2; and
- 18.4.2 allow the Supplier access to the site on which the Goods are located or where the Services are being provided to enable the Supplier to collect any equipment, materials and other property belonging to the Supplier arising out of or in connection with this Agreement.
- 18.4.3 all licences granted to the Customer in respect of the Supplier's Intellectual Property Rights shall immediately cease.
- 18.5 On termination of the Agreement for a material breach of any term of this Agreement by the Customer, any licence granted to the Customer in respect of any Material will be immediately terminated and the Customer must immediately cease to use any such Material.
- 18.6 Termination of the Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.



- 18.7 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect.

19. Assignment and other dealings.

- 19.1 The Supplier may subcontract, assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations its obligations under this Agreement.
- 19.2 The Customer may not assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement without the prior written consent of the Supplier.

20. Notices

- 20.1 Any notice given to a party under or in connection with this Agreement shall be:
- (i) in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service or commercial courier; or
 - (ii) sent via email to an email address supplied by the receiving party from time to time.
- 20.2 A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 20.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or if sent via email, on the successful transmission of the email to an email address provided by the recipient party.
- 20.3 The provisions of this clause 20 shall not apply to the service of any proceedings or other documents in any legal action.

21. Severance

- 21.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 21 shall not affect the validity and enforceability of the rest of the Agreement.
- 21.2 If one party gives notice to the other of the possibility that any provision or part-provision of the Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

22. Entire Agreement

- 22.1 This Agreement and any non-disclosure agreement entered into between the parties (which shall continue notwithstanding entry into a contract on these terms and conditions) constitutes the entire agreement between the parties and supersedes and extinguishes all



previous and contemporaneous agreements, promises, assurances, and understandings between them, whether written or oral, relating to its subject matter.

22.2 Each party acknowledges that in entering into this Agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

23. Multi-tiered dispute resolution and Adjudication

23.1 Any dispute between the parties under or in accordance with this Agreement or its performance, validity or enforceability, shall be referred, as soon as reasonably practicable, to an appropriate director of each party in the first instance who shall attempt (acting reasonably and in good faith) to resolve the dispute.

23.2 If such directors are unable to resolve the dispute within 14 days of it being referred to them, the dispute will be referred to the Managing Directors of each party who shall attempt (acting reasonably and in good faith) to resolve the dispute.

23.3 If the Managing Directors are unable to resolve the dispute within 30 days of it being referred to them, either party may refer the matter to adjudication in accordance with the adjudication procedure set out in the Housing Grants, Construction and Regeneration Act 1996.

23.4 Save in respect of manifest error or fraud, the decision of the adjudicator shall be binding on the parties unless and until the dispute is finally determined by legal proceedings, arbitration (if applicable), or by agreement between the parties.

24. Waiver

24.1 A waiver of any right or remedy under this Agreement or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

25. Third party rights

25.1 It is hereby acknowledged and agreed that any members of the Supplier's Group may (pursuant to the Contracts (Rights of Third Parties) Act 1999) enforce the provisions of this Agreement against the Customer as if they were a party to it and acting as a joint employer.

25.2 Save for as set out at clause 25.1, any person who is not a party to this Agreement shall not have any rights to enforce its terms.

25.3 The rights of the parties to rescind or vary the Agreement are not subject to the consent of any other person.



26. Agreement Variation

- 26.1 Except as set out in this Agreement, no variation of this Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by the Supplier

27. Governing law

- 27.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

28. Jurisdiction

- 28.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with each Schedule or its subject matter or formation (including non-contractual disputes or claims).

